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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/067,047	02/04/2002	James J. Kobe	57147US002	4924

32692 7590 09/30/2003

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EXAMINER

ZIRKER, DANIEL R

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 09/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

Applicant(s)

Examiner

Group Art Unit

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- ☒ Responsive to communication(s) filed on 7/11/03
- ☒ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-21 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-21 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement

Application Papers

- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some* ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
- ☐ Certified copies of the priority documents have been received in Application No. _____.
- ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

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1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 1-21 are rejected under 35 U.S.C. § 112, first paragraph as based on a disclosure which is non-enabling, substantially for the reasons set forth in paragraph No. 2 of Paper No. 3, together with the following additional observations. The Examiner is essentially making an "undue breadth" rejection, and believes that the multiple criteria and related information set forth in the specification at page 7 line 20 - page 8 line 2 should have at least the broadest ranges set forth in the claim in order to properly define the metes and bounds of the invention. Applicants' remarks (Response, page 5, third complete paragraph) do not really contest this observation, except to apparently traverse the Examiner's position that such criteria should not be set forth in the claim; however, the Examiner believes his position is proper for reasons of record and as such the rejection is repeated.

3. Claims 1-21 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Kreckel et al. in view of Joseph et al., substantially for the reasons set forth in paragraph No. 4 of Paper No. 3, together with the following additional observations. Applicants' remarks with respect to both of the relied upon references for the combination, as well as those relating to Gehlsen et al., cited as evidence of the art appear for the most

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part to focus upon the references individually, and fail to appreciate the particular reference teachings

which the Examiner has relied upon for his combination rejection. For example, Kreckel et al. is not relied upon for teaching a fibrous reinforcing material, as the rejection clearly states, this element being supplied by the secondary reference Joseph et al. The Examiner also believes that applicants have failed to appreciate that Joseph et al. supplies the missing element of the relied upon prior combination, namely the fibrous materials and the Examiner further again notes that column 11 lines 4-13 ^{of Joseph et al} discloses a broad genus of non-woven webs that can be made from a variety of fibers which can include such fibers as reinforcing or elastic threads or strands that can be used in stretch release adhesive tape backings and the like so as to form a highly extensible foam material or backing where the elastic behavior of the web can be controlled to an appropriate level (paragraph No. 4 of the prior Office action³, page 3). Finally, with respect to Gehlsen et al., it is believed that this reference is not required to "teach a method that includes the step of forming fibers" and applicants' remaining arguments are not seen to overcome the relied upon prior art rejection of record.

4. **THIS ACTION IS MADE FINAL.** Applicants are reminded of the extension of time policy as set forth in 37 C.F.R.

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§ 1.136(a). The practice of automatically extending the shortened statutory period an additional month upon the filing of a timely first response to a final rejection has been discontinued by the Office. See 1021 TMOG 35.

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Zirker whose telephone number is (703) 308-0031. The examiner can normally be reached on Monday-Thursday from 8:30 A.M. to 6:00 P.M. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris, can be reached on (703) 308-2414. The fax phone number for this Group is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0661.

Dzirker:cdc

September 24, 2003

DANIEL ZIRKER
PRIMARY EXAMINER
GROUP ~~1300~~
1700

Daniel Zinker